

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NORTH CAROLINA
WESTERN DIVISION

NO. 5:13-CT-3264-FL

FERNANDO PALMA CARIAS,)
)
Plaintiff,)
)
v.)
)
DONNIE HARRISON, E.A.)
BLOMGREN, JAMES MICHAEL)
CORNAIRE, DWIGHT YOKUM, and)
THE UNITED STATES OF)
AMERICA,)
)
Defendants.)

ORDER

NO. 5:14-CT-3104-FL

FERNANDO PALMA CARIAS,)
)
Plaintiffs,)
)
v.)
)
THE DRUG ENFORCEMENT)
ADMINISTRATION, WILLIAM)
ATWELL, LANCE ANTHONY,)
MICHAEL WILLIAMS, D. TAYLOR,)
K. MANNING, and ATTORNEY)
GENERAL ERIC HOLDER,)
)
Defendants.)

ORDER

The matter comes before the court on plaintiff's response to the court's May 11, 2015, order directing him to particularize this consolidated civil rights action he filed *pro se* pursuant to 42 U.S.C. § 1983 and Bivens v. Six Unknown Named Agents of Federal Bureau of Narcotics, 403

U.S. 388 (1971). Also before the court are defendants' motion for an extension of time to respond to plaintiff's requests for admissions (DE 43), filed in Carias v. Harrison, No. 5:13-CT-3264-FL (E.D.N.C.), and defendants' motion to stay discovery (DE 29) filed in Carias v. Drug Enforcement Agency, No. 5: 14-CT-3104-BO (E.D.N.C.). In this posture, the issues raised are ripe for adjudication.

The court begins with plaintiff's response to the court's May 11, 2015, order to particularize this action. The court finds that plaintiff is ALLOWED to proceed with his action against defendants Donnie Harrison, James Michael Cornaire, Lance Anthony, E.A. Blomgren, Nardine Mary Guirguis, the Drug Enforcement Agency ("DEA") Director, William Atwell, Dalton Taylor, Kenneth Manning, Michael Williams, the United States Immigration and Customs Enforcement ("ICE") Agency Director, Christopher Brant, Unidentified ICE Agent, Eric Holder, and the Unidentified Indemnitor for Wake County. To the extent plaintiff named other individuals as defendants in his prior pleadings, such defendants are DISMISSED from this action without prejudice.¹

The court now turns to defendants' motions to stay discovery pending the resolution of their December 19, 2014, motion to dismiss. Because the court denied defendants' motion to dismiss as moot on May 11, 2015, defendants' motion to stay discovery is DENIED.

Finally, the court addresses defendants' motion for an extension of time for defendants to file responses to plaintiff's requests for admissions. For good cause shown, defendants' motion is

¹ The court notes that plaintiff included several unnamed individuals as defendants in his particularized complaint. It is possible that plaintiff will be able to discover the identity of these individuals in the course of discovery. Accordingly, the court will allow plaintiff to proceed against the unnamed parties at this time. See Schiff v. Kennedy, 691 F.2d 196, 198 (4th Cir. 1982) (finding that, "if the true identify of an unnamed party can be discovered through discovery or through intervention of the court," a court should not dismiss the unnamed party from the action.)

GRANTED, and defendants' responses to plaintiff's requests for admissions now are due by July 10, 2015.

For the foregoing reasons, the court rules as follows:

- (1) Plaintiff is ALLOWED to proceed with his action against the above-stated defendants. To the extent plaintiff named other individuals as defendants in his prior pleadings, such defendants are DISMISSED from this action without prejudice. The court DIRECTS the United States Marshal Service to make service pursuant to 28 U.S.C. § 1915(d);
- (2) Defendants' motion for an extension of time to respond to plaintiff's requests for admissions (DE 43), filed in Carias v. Harrison, No. 5:13-CT-3264-FL (E.D.N.C.), is GRANTED, and defendants' responses to plaintiff's requests for admissions now are due by July 10, 2015;
- (3) Defendants' motion to stay (DE 29) filed in Carias v. Drug Enforcement Agency, No. 5: 14-CT-3104-BO (E.D.N.C.) is DENIED.

SO ORDERED, this the 2nd day of July, 2015.

A handwritten signature in black ink, reading "Louise W. Flanagan". The signature is written in a cursive, flowing style.

LOUISE W. FLANAGAN
United States District Judge